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ROGITZ & ASSOCIATES
750 B STREET
SUITE 3120
SAN DIEGO, CA 92101

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OFFICE OF PETITIONS

In re Application of Nguyen : Decision on Petition
Application No. 09/835,101 :
Filing Date: April 13, 2001 :
Attorney Docket No. 50P3986.01 :
:

This is a decision on the petition under 37 CFR 1.137(b), filed March 28, 2006, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to file a proper reply to the Notice to File Missing Parts of Application (Notice) mailed July 18, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. Although a reply was timely filed, the reply did not include the required fees.

An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on September 19, 2001. A Notice of Abandonment was mailed on October 29, 2003.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

A request for a four-month extension of time was filed with the petition. As a result, deposit account no. 193195 was charged \$1,590 for a four-month extension of time. Payment for an extension of time is unnecessary when reviving an application. Therefore, the Office has credited the \$1,590 back to the deposit account.

John Rogitz signed the petition. Rogitz was not an attorney or agent of record at the time the application became abandoned. Therefore, it appears Rogitz was not in a position to have firsthand or direct knowledge of the facts and circumstances of the delay. Nevertheless, the statement by Rogitz that the entire delay was unintentional is being treated as having been made

as the result of a reasonable inquiry into the facts and circumstances of such delay.¹ In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that a portion of the delay from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The Office of Initial Patent Examination will be informed of the instant decision and will take steps to have the application prepared for examination in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

¹ See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).